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HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition No. 251 of 2002

Petitioner		Lakhan Das Kotwar, aged 60 Yrs S/o Shri Samalia Das R/o Vill. Daundi Lohara, District - Durg (C.G.)
	Versus	
Respondents	1.	The State of Chhattisgarh Through, Secretary-Revenue, Govt. of Chhattisgarh, Raipur.
	2.	The Collector of Distt. Durg, Durg (C.G.)

WRIT PETITON UNDER ARTICLE 226 OF THE CONSTITUTION

SB : Hon'ble Justice Shri Satish K. Agnihotri

Present: Mr. Sameer Sahu, Advocate for the petitioner.
Mr. Satish Gupta, Deputy Government Advocate for the respondents.

ORDER

(Passed on this 3rd day of May, 2007)

1. The petitioner being Kotwar was in possession of the disputed land since 1942. The petitioner is aggrieved by inaction on the part of the revenue authorities not to declare as the petitioner to grant of Bhumiswami rights over the disputed land admeasuring 2.54 hectors, situated at village Daundi Lohara, P.CP. No. 25, R.I. Circle & Tahsil Daundi Lohara, Distt. Durg.

2. Learned counsel appearing for the petitioner submits that having been in continuous possession of the lands in question for such a very long time even on humanitarian consideration, the petitioner should be given Bhumiswami rights. It is also further contended that in another case vide Writ Petition No. 2064 of 2000 disposed of on 3.5.2001 such direction was issued by this Court in respect of 36 Kotwars. Learned counsel for the petitioner further placed reliance on a decision of this

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Court in W.P. No. 2632/2000 (Chhabil Das & others Vs. The State of M.P. & another) passed on 30.10.2001. It is further contended that even otherwise village Kotwar is also entitled to get some lands as Kotwars.

3. According to learned counsel for the petitioner a village Kotwar is entitled of 2.54 hectors of land. The petitioner is claiming possession of the land recorded in revenue records as those land is in possession of his predecessors who were also village Kotwars.

4. According to learned counsel for the petitioner, the land in question is Mafi land and not service land. Learned counsel appearing for the respondents controverts this statement.

5. Be that as it may, it seems to me that the petitioner is claiming Bhumiswami rights over the land which is granted to his predecessors prior to 1942 and the said land is duly recorded by revenue records.

6. On perusal of the relevant documents placed before me and after hearing learned counsel of both sides, I am of the view that it will be just and fair that the competent authority shall consider the issue after affording proper opportunity of hearing to all the parties and pass appropriate order in regard to claim of the writ petitioner.

7. In the result, this petition is disposed of with the direction that the competent authority shall consider the case of the petitioner for grant of Bhoomiswami right, in accordance with law after affording proper opportunity of hearing to the concerned parties, within a period of three months from the date of receipt of a copy of this order. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

B/-